
SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA, MAUI FOR SEAWALL ENCROACHMENT PURPOSES AND AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT FOR THE RIGHT, PRIVILEGE, AND AUTHORITY TO USE, MAINTAIN, REPAIR, AND REPLACE AN EXISTING SEAWALL OVER, UNDER, AND ACROSS STATE-OWNED LAND IN LAHAINA, MAUI.

1 WHEREAS, the Board of Land and Natural Resources approved
2 the request of Paul D. Gossman, as trustee of the Paul D.
3 Gossman Residence Trust Dated December 18, 2008, for a term,
4 non-exclusive easement over a portion of state-owned land
5 located in Lahaina, Maui, on August 9, 2013, under agenda item
6 D-10; and

7
8 WHEREAS, the seaward boundary of the Paul D. Gossman
9 Residence Trust property fronts the ocean and a seawall
10 straddles the seaward boundary of the Paul D. Gossman Residence
11 Trust property and submerged public land, which is state owned
12 and identified by tax key map number (2)4-5-003, seaward of
13 parcel 026. A portion of the seawall encroaches into the state-
14 owned submerged land; and

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16 WHEREAS, the area of the seawall comprising approximately
17 two hundred sixty square feet has encroached on state-owned
18 submerged land prior to 1974; and

19
20 WHEREAS, the character of the use of the easement is the
21 right, privilege, and authority to use, maintain, repair,
22 replace, and remove the existing seawall over, under, and across
23 state-owned land; and

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25 WHEREAS, the easement term is for fifty-five years in
26 consideration for a one-time payment to be determined by
27 independent appraisal establishing a fair market rent, subject



1 to review and approval by the Chairperson of the Board of Land
2 and Natural Resources; and
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4 WHEREAS, in a separate matter, the Association of Apartment
5 Owners of Lahaina Roads, a non-profit corporation, is planning
6 to conduct minor repairs to the existing nonconforming seawall
7 fronting the Lahaina Roads complex in Lahaina, Maui, tax key map
8 number (2)4-5-013, seaward of 027, an area of approximately
9 2,352 square feet; and
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11 WHEREAS, the Association of Apartment Owners of Lahaina
12 Roads seeks a grant of a term, non-exclusive easement for the
13 right, privilege, and authority to use, maintain, repair, and
14 replace an existing seawall over, under, and across state-owned
15 land in Lahaina, Maui; and
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17 WHEREAS, the Board of Land and Natural Resources approved
18 the request of the Association of Apartment Owners of Lahaina
19 Roads of a term, non-exclusive easement for a portion of state-
20 owned land located in Lahaina, Maui, on July 27, 2012, under
21 agenda item D-3; and
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23 WHEREAS, a site plan approval was submitted to the Office
24 of Conservation and Coastal Lands for review and approval; and
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26 WHEREAS, the Office of Conservation and Coastal Lands has
27 determined that the issuance of an easement for the
28 encroachments would have no adverse impacts on beach and
29 recreational resources and does not act as a detriment to public
30 access, and that no after-the-fact conservation use permit is
31 required to cure the encroachment; and
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33 WHEREAS, the Office of Conservation and Coastal Lands is in
34 support of the easement, which is required for the use of public
35 lands for the area that the encroachment encumbers; and
36

37 WHEREAS, the staff at the Department of Land and Natural
38 Resources believes that the easement involves an encroachment
39 onto a portion of submerged lands and fast lands which may
40 impact the value pursuant to section 171-53(b), Hawaii Revised
41 Statutes, and require prior approval of the Governor and the



1 prior authorization of the Legislature by concurrent resolution,
2 pursuant to section 171-53(c), Hawaii Revised Statutes; and
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4 WHEREAS, at a meeting of the Board of Land and Natural
5 Resources on July 27, 2012, the Board imposed a fine of \$500 for
6 illegal encroachment and assessed a penalty for administrative
7 costs of \$200 for staff time incurred in resolving the matter;
8 and
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10 WHEREAS, pursuant to section 171-53(c), Hawaii Revised
11 Statutes, the Board of Land and Natural Resources, with the
12 approval of the Governor and the prior authorization of the
13 Legislature by concurrent resolution, may lease state submerged
14 lands and lands beneath tidal waves; now, therefore,
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16 BE IT RESOLVED by the Senate of the Twenty-eighth
17 Legislature of the State of Hawaii, Regular Session of 2015, the
18 House of Representatives concurring, that the fifty-five year
19 term for a non-exclusive easement to Paul D. Gossman as trustee
20 of the Paul D. Gossman Residence Trust Dated December 18, 2008,
21 for seawall encroachment purposes, is authorized by the
22 Legislature according to the terms and conditions approved by
23 the Board of Land and Natural Resources on August 9, 2013; and
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25 BE IT FURTHER RESOLVED that the issuance of a term, non-
26 exclusive easement for the right, privilege, and authority to
27 use, maintain, repair, and replace an existing seawall over,
28 under, and across state-owned land, tax key map number (2)4-5-
29 013, seaward of 027, an area of approximately 2,352 square feet,
30 in Lahaina, to the Association of Apartment Owners of Lahaina
31 Roads is authorized by the Legislature according to the terms
32 and conditions approved by the Board of Land and Natural
33 Resources on July 27, 2012; and
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35 BE IT FURTHER RESOLVED that certified copies of this
36 Concurrent Resolution be transmitted to the Governor and
37 Chairperson of the Board of Land and Natural Resources.

